

up of rafts or boats on or in passing over said dam: *Provided*, Such damage is not in consequence of any neglect on the part of the owner of such raft or boat.

SEC. 10. This act shall take effect and be in force from and after its passage.

SEC. 11. The Legislative Assembly of Minnesota Territory may alter or amend this act, at any time after ten years from the passage of this act.

J. W. FURBER,

Speaker of the House of Representatives.

JOHN B. BRISBIN,

President of the Council.

APPROVED—February thirteenth, one thousand eight hundred and fifty-seven.

SECRETARY'S OFFICE, Minnesota, }

SAINT PAUL, March 10, 1857. }

I certify the above to be a true copy of the original on file in this office.

J. J. McCULLOUGH,
Acting Secretary.

CHAPTER XXIV.

An Act to Incorporate the Minnesota and Dakota Railroad Company.

- SECTION 1 Commissioners to open books.
2 Capital Stock—Incorporation.
3 Commissioners give notice—Elect Directors.
4 Directors chosen Annually—By-Laws, &c.
5 Elections—Vote by shares.
6 Directors meet—Quorum—Fix compensation of Officers.
7 Shall issue Certificates to Stockholders.
8 Location—Side tracks, Ware houses, &c.
9 Commence and complete Road.
10 Right of way—Erect Buildings.
11 Compensation for lands—How determined—Appeal.
12 Valuation for damages tendered—Entitled to possess.
13 May construct over Bridges and Highways.
14 On completing five miles or more, may receive Toll.
15 Wilful Injury—Penalty.
16 Individual property taken to pay debts.
17 May Borrow Money.
18 May Purchase lands for gravel, &c.
19 Public Act—To be favorably construed.
20 In case of violation, Legislature may rescind.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. That Edmund Rice, Alex. Ramsey, George Culvor, and Geo. L. Becker, of Saint Paul, Emanuel Case, Franklin Steele, and Henry S. Wells, of Hennepin county, Joseph R. Brown, E. T. Mixer and Charles Blair, of Hender- Commissioners

son, Sibley county, Francis Baasen, Michael Schultz, N. R. Brown, of Brown county, and Thomas Holmes and Robert Kennedy, of Scott county, be and they are hereby appointed Commissioners, under a majority of whom subscriptions may be received to the capital stock of the Minnesota and Dakota Railroad Company hereby incorporated, and for that purpose they may cause books to be opened at such times and in such places as they may deem proper, for the purpose of receiving subscriptions to the capital stock of said company, first giving twenty days notice of the times and places of taking such subscriptions, by publishing the same in at least three newspapers printed in the Territory, and one of which shall be published in the city of Saint Paul.

Capital Stock

Incorporation

Sec. 2. The Capital Stock of said Company shall be Two Millions of dollars, in shares of One Hundred dollars each, and as soon as one thousand shares shall be subscribed, and ten dollars on each share actually paid in, the subscribers of such stock, with such other persons as may subsequently become associated with them for such purpose, their successors and assigns, shall be, and they are hereby declared and created a body politic and corporate, by the name and style of "The Minnesota and Dakota Railroad Company," with perpetual succession, and by that names hall have the privileges, franchises and immunities incident to a corporation. They shall be capable in law of purchasing, holding, selling, leasing and conveying estate, either real, personal or mixed, as far as the same may be deemed necessary for the purposes hereinafter mentioned; and in their corporate name may sue and be sued, plead and be impleaded in all courts of law or equity. They may have a common seal which they may alter and renew at pleasure, and generally may do all and singular the matters and things which to them it shall lawfully appertain to do for the well being of said corporation.

Directors

Sec. 3. Said Commissioners, or a majority of them, shall after the said five hundred shares of stock shall have been subscribed as aforesaid, give at least thirty days notice in the newspapers hereinbefore mentioned, of the time and place by them appointed for the subscribers or stockholders to meet for the purpose of electing nine Directors, and annually thereafter, the stockholders of said company shall meet on the first Monday of January, for the purpose of electing Directors as aforesaid, like previous notice to be given by the President of the Board; *Provided*, That if from any cause no election shall be held at the time herein specified, then the Board of Directors previously elected shall continue to act until the next annual election for Directors, or an election may be held at any time, thirty days notice being previously given as aforesaid, by the President of the Board, for the election of Directors or other officers, when any vacancy may occur and the interests of the Company requires an election, and this chapter shall not be annulled by reason of the irregularity of

any election for officers of the Company. A vacancy in the Board from death, resignation or otherwise, may be filled by the Board of Directors, if in their opinion they should do so.

SEC. 4 The affairs of said Company shall be managed by a Board of nine Directors, who shall be chosen annually as hereinbefore prescribed by the stockholders of said company, the votes to be delivered by proxy duly authorized, or in person, which Directors shall appoint one of their own number to be President, and shall respectively serve one year or until other Directors are elected. They shall have power to establish and make such by-laws, rules and regulations not inconsistent with this act or the laws and Constitution of the United States and of the Territory of Minnesota, as may be necessary for the well ordering of the affairs of said Company.

By-Laws

SEC. 5. None but stockholders shall be elected Directors, and at every election, and in all cases upon which stockholders shall be called upon to vote, each share of stock shall be entitled to one vote, and in all cases for election of Directors, the nine stockholders having the greatest number of votes shall be declared duly elected.

Elections

SEC. 6. The said Directors shall meet at such times and places and be convened in such manner as they may hereafter decide upon; a majority of Directors shall be a quorum for the transaction of business, who, in the absence of the President, shall appoint a President pro tem. The by-laws of the company may provide for the election, or the Directors may appoint a Secretary, Treasurer, and such Engineers and other officers as they may deem necessary. The Directors shall have power to fix the Compensation of all officers, and may demand adequate security for the proper performance of their respective trusts; they shall decide the time and manner proportions in which the said stockholders shall pay the moneys due on their respective shares, and forfeit to the use of the company the share or shares of every person or persons failing to pay instalments as required by the by-laws, at a reasonable period not less than thirty days after the time by them appointed for the payment thereof. They shall have full power to regulate tolls, to make such covenants, contracts or agreements with any persons, copartnerships or body politic whatsoever, as the execution and management of the works, and the convenience and interest of the company may require, and in general to superintended and direct all the operations, receipts, disbursements, and other proceedings of the company; *Provided*, that no instalments called at any time, exceed ten dollars per share, and that no instalments shall be called by the Directors without at least thirty days notice thereof in the newspapers as hereinbefore mentioned.

Directors meet

Installments

SEC. 7. The Directors chosen as aforesaid, shall issue a certificate to each stockholder for the number of shares he or they may subscribe for or hold in said corporation, signed by the President, countersigned by the Secretary, and sealed with the common seal, subject, however, to all payments due

Issue certificate

or to become due thereon, which stock shall be transferable in person or by Attorneys, Executors, Administrators, Guardians or Trustees, under such regulation as may be provided for in the by-laws of the company.

Location

SEC. 8. The said company shall have power to locate and construct a single or double track railroad from such eligible point at or near the city of Saint Paul, by Henderson, in Sibley county, to the southern boundary of the Territory, and thence to such point on the Missouri river as the Directors may select, with a branch from Saint Anthony, forming a junction with said road at Henderson aforesaid, and shall have power to transport, take and carry property and persons upon the same by the power of steam, of animals, and of any mechanical or other power, or of any combination of them, and they shall have power to make, construct and erect all such side tracks, turnouts and connecting tracks, and also such warehouses, tollhouses, machine-shops, carriages, cars and other works and appendages as may be necessary for the conveniences of the company for use of said railroad, and the Directors may connect said railroad, and operate the same, with other railroads or branch railroads in the Territory or future State of Minnesota, as they may deem advantageous to the interests of said company.

**Tracks, Houses
Cars, &c.**

**Commence and
Complete**

SEC. 9 If Said company shall not within two years from the passage of this act, commence the construction of said railroad, and within three years thereafter complete fifty miles of the same, then the rights, privileges and powers of said corporation under this act shall be null and void.

Right of way

SEC. 10. It shall be lawful for said company, their officers, engineers and agents, to enter upon any lands for the purpose of exploring, surveying and locating the route of said railroad, doing thereto no unnecessary damage, and when the said route shall be determined by said company, it shall be lawful for them, their agents, officers, engineers contractors and servants, at any time to enter upon, take possession of, and use such lands, not exceeding one hundred feet in width, along the line of said road, subject, however, to the payment of such compensation as the company shall have agreed to pay therefor, or shall be ascertained in the manner hereinafter directed and provided in such cases respectively. All such lands within the limits of the line of said railroad, and which may now belong to this Territory of Minnesota, or hereafter be acquired thereby, or by the future State of Minnesota, in which the said line may be, is hereby granted to the said corporation for such purposes, to be by them held and possessed so long as the same shall be used for such purposes, and no longer: *Provided*, That in case any of the lands which may have been reserved, or shall hereafter be reserved or granted for the use of schools, shall be included within the limits of said line, the said corporation shall pay therefor, such sum, not less than one dollar and twenty-five cents per acre, as the Legislature of the Territory or future

State of Minnesota shall fix, which sum shall be paid in such manner as may be prescribed, and shall belong to the School Fund of the county in which said land is situated, by the Legislature, and said company is authorized further by their officers, engineers and agents to enter upon lands adjacent to the railroad beyond the limits of one hundred feet, in the manner provided in this act; when necessary for the purpose of erecting depot buildings, station houses, and necessary fixtures for the operation and business of said railroad, and giving proper direction to water courses, across or along said road and to remove all substances and things which might endanger, obstruct or interfere with the free use of said road, and to deposit earth and gravel taken from the deep cuts, and to obtain earth, gravel and other material for embankment and structures necessary to the construction and repairs of said road, doing, however, no unnecessary damage; and all lands so occupied, and all damage which shall be done to any lands or property under the provisions of this section, which may not be amicably ascertained and adjusted, shall be ascertained and paid for in the manner and agreeable to the provisions hereinafter provided.

SEC. 11. When the corporation cannot agree with the owner or owners of such required land for the purchase thereof, or as to the compensation to be paid to said owner or owners of any lands taken for the purposes aforesaid, or when by reason of the legal incapacity or absence of any such owner or owners, no such agreement or purchase can be made, then, and in such case, the compensation for said lands taken shall be ascertained and determined in the manner following:

The said company may present to a court in the judicial district in which the lands or real estate proposed to be taken shall be situated, having complete jurisdiction in the premises, a petition signed by some authorized agent or attorney thereof, setting forth the names of each and every owner or other persons interested in the same, or any parts thereof, so far as can be ascertained by the legal records affecting the same, and praying the appointment of three disinterested persons residing in said county, as Commissioners to ascertain and determine the compensation to be made to the said owner or owners respectively, and others interested, for the taking or injuriously affecting such land or real estate. A copy of such petition, with a notice of the time and place, when and where the same will be presented to the court, shall be served on each and every person named therein, as owner or as otherwise interested, at least ten days previous to the time designated in such notice for the presentation of said petition. Such service shall be made by delivering such copy of the petition and notice, to each of the persons so named therein, if a resident of this Territory, or in case of the absence of such persons, by leaving said copy of petition and notice at his or her usual place of abode, with some person of sufficient

Lands taken

Compensation

age and understanding to comprehend the object thereof, which shall be communicated to such person, with a request to deliver the same to the individual for whom it is thus left, at the earliest opportunity. In case there shall be any persons named in such petition who are not residents of this Territory, and upon whom service cannot be made in the manner above specified, a notice stating briefly the object of such petition, a description of the land proposed to be taken, and the time and place of presenting the petition to the court, and directed to such person or persons, shall be published in the newspapers published nearest to the location of such lands, and in a newspaper published at the seat of government of this Territory, once in each week for six consecutive weeks previous to the time designated for presenting such petition. The court to whom such petition shall be presented shall not make any order for the appointment of the aforementioned Commissioners, except upon proof by affidavit and to the satisfaction of the court, of the service of the petition and notice in the manner hereinbefore prescribed, or upon the appearance of the party or parties upon whom such service was made. The court may, upon application of the said company or of any party interested, for reasonable cause, adjourn the proceedings from time to time and may order new and further notice to be given to any party whose interest may be affected thereby. When the court shall have proof satisfactory that all parties interested in any parcel of land have been duly served with the petition and notice in the manner herein prescribed and of the nature and the extent of the interests of each and every party in the same, the court may, at the costs and charge of said company, make an order to be recorded in the minutes thereof, appointing three disinterested persons residing in said county, as commissioners, whose duty it shall be to view and examine said land with the buildings and improvements, if any thereon, and to estimate the value of the lands so taken or required by said company, and all damages which the owner or owners thereof shall sustain or may have sustained by reason of the taking of the same for the construction and use of said railroad, or works appertaining thereto, taking into consideration the advantages as well as disadvantages of the same to the said owner or owners; and the person so appointed, before entering upon the discharge of said duties, shall take an oath before some person competent to administer oaths, faithfully and according to the best of their abilities to examine the lands, so taken or required by said company, and impartially to estimate and appraise the value of the same, and the damages or injuries which the owner or owners thereof shall have sustained or may sustain by reason of the taking and using thereof by the said company, over and above the benefits and advantages which such owner or owners, shall derive from the construction of such railroad, whereupon the commissioners shall proceed to examine the premises and estimate the value

of such lands and the amount of damages, if any, over and above the benefits and advantages which may accrue to such owner or owners as aforesaid, and shall make a report of such valuation in writing under their hands and seals to said judge, and shall return the same within thirty days, after their appointment, to the Clerk of the district court of the judicial district in which the county is situated; and it shall be the duty of such Clerk to file the same, and in case no appeal shall be made within thirty days after the filing of said report as hereinafter provided, then the said Clerk shall record the same at the expense of said company, and judgment of the said court shall be entered thereon, on motion of either party, at any term of said court. *Provided*, That either party may appeal to said court within thirty days after said report shall have been filed in the Clerk's office, and such appeal shall be tried in the same manner as other issues are tried in said court, and the jury empaneled to try the same, shall find the value of the land so taken, or required by said company, and the damages which the owner or owners thereof shall have sustained or may sustain by the taking of the same, over and above the benefits which will accrue to such owner or owners from the construction of said railroad, and judgment shall be entered accordingly. *Provided, also*, that upon making and filing of any report as aforesaid, and payment or legal tender of the amount of any valuation or appraisal specified therein, to the owner or owners of any such lands, his, her, or their legal representatives, the said company, their agents or contractors for making or repairing said railroad, may immediately take and use the same without awaiting the issue of any appeal brought thereon.

Appeal

SEC. 12. Whenever any judgment shall have been entered as herein provided, for the value of any lands, or for any damages for the using or taking of the same, and the amount specified shall have been paid or tendered to the owner or owners of such lands, his, her or their legal representative, the said company shall be entitled to the easement of the same, as long as it shall be used for the track of said railroad, or the necessary fixtures thereto, and if such valuation be not received when tendered, it may at any time thereafter be received, or may be collected from said company by an action at law, at the cost and expense of the person or persons entitled to the same: *Provided*, That the cost of any proceedings or judgments specified in the last preceding section shall be taxed by the court, and paid by said company, except in cases where upon appeal the verdict of the jury shall be for the same or less sum than that reported by the commissioners.

Valuation of damages

SEC. 13. For the purpose of constructing said railroad, and using the same, the said corporation is authorized to construct the said railroad and necessary bridges across and over any public or private road or navigable stream: *Provided*, It be done so as not to obstruct the free use and

Bridges and highways

passage of any road, or to materially obstruct or impede the navigation of any navigable stream.

Toll SEC. 14. On the completion of said railroad, or any portion of the track not less than five miles, it shall or may be lawful for the company to demand and receive such sum or sums of money for passage or freight of persons and property as they shall from time to time think reasonable.

Wilful injury SEC. 15. If any person shall wilfully break, injure or destroy the railroad to be so constructed by said company, or any part thereof, or any work, building, machinery attached to, or in use upon the same, belonging to said company, such person or persons so offending, and each of them, for every such offence shall be liable in treble the damages occasioned thereby, to be recovered by an action of debt in any court having competent jurisdiction, and shall also be subject to indictment, and upon conviction shall be punished by fine and imprisonment, or either, at the discretion of the court.

Debts SEC. 16. The property of every individual invested in said corporation, shall be liable to be taken in execution for the payment of his or her debts, in such manner as may be provided by law; *Provided*, That all debts due said company shall be paid first.

Borrow money SEC. 17. The said railroad company are hereby authorized and fully empowered, in their corporate name and capacity, to borrow any sum or sums of money, from any person or persons, corporation or body politic of any kind, and make and create in their corporate name all necessary writings, notes, bonds or other papers, and make, execute and deliver such securities, in amount and kind, as may be deemed expedient by said corporation, and the powers of said corporation for the purposes aforesaid, and for all purposes necessary to carry out the object of said company, and the contracts and official acts of said company legally made and binding in law and equity upon said corporation, and upon all other parties to such contracts.

Purchase lands SEC. 18. It shall be lawful for said company to purchase lands adjoining the railroad, for the purpose of procuring earth, gravel, stone or other materials for embankments and structures necessary to the construction or repairs of said road, and whenever such lands shall no longer be needed for the purposes aforesaid, the said Company are hereby authorized to sell and convey the same

Public act SEC. 19. This act shall be favorably construed to affect the purposes thereby intended, and the same is hereby declared to be a public act, and copies thereof printed by authority of the Territory of Minnesota, shall be received as evidence thereof.

Violation SEC. 20. In case of a violation by the Company of any of the provisions of this act, the Legislature of this Territory may resume all and singular the privileges hereby granted to said Company.

Sec. 21. This act shall be in force from and after its passage.

J. W. FURBER,

Speaker of the House of Representatives.

JOHN B. BRISBIN,

President of the Council.

APPROVED—March sixth, one thousand eight hundred and fifty-seven.

SECRETARY'S OFFICE, Minnesota, }

SAINT PAUL, March 10, 1857. }

I certify the above to be a true copy of the original on file in this office.

J. J. McCULLOUGH,
Acting Secretary.

CHAPTER XXV.

A Bill for an Act to Incorporate the Brunson Seminary.

- SECTION 1 Incorporation.
2 Nine Trustees—Board of Visitors.
3 No religious test shall be required.
4 Location of Seminary.
5 First Meeting—Elect Officers.
6 Treasurer shall give Bonds.
7 All suits shall be by summons.
8 Trustees divided by Lot.
9 Powers and Duties.
10 Shall be under patronage of Annual Conference.
11 Regulate Studies—Erect Buildings—Bequests.
12 May call special meeting of Board.
13 Power to establish Preparatory Department.
14 First Meeting.
15 Legislature may amend this Act.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. That there be established at or near the village of Hamilton, in the County of Fillmore or Mower, Minnesota Territory, an institution by the name of the Brunson Seminary, and that Chancy Hobart, Ezra Tucker, William Campfield, A. A. Gale, Daniel L. Booth, Elijah Fate, James E. Sebring, Boyd Phelps, and Thomas H. Armstrong, their associates and successors in office, be, and they are hereby created a body politic and corporate, to be styled the Trustees of the Brunson Seminary, and shall be trustees of said corporation for the purposes of further establishing, maintaining and conducting an institution of learning for the education of youth of both sexes; and by the aforesaid corporate name, to remain in perpetual succession with full power to sue and be sued, to plead and be impleaded, to acquire, hold and convey property, real, personal, and mixed, in all lawful ways; *Provided*, Always, that the annual income shall not exceed fifty

LAW OFFICE OF
FRANK J. JASON,
LOAN AND TRUST BLDG.
MINNEAPOLIS,